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Avoiding legal challenges to development consent

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A final obstacle?



The Shakespearian Solution...?



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Procedural Reforms

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What has changed?

Planning and Infrastructure Act 2025 received royal assent on 18 December 2025

- No more paper permission stage for challenges to NPSs or DCOs. Straight to oral permission hearing.
- Permission refused – normal appeal rights apply.
- Permission refused and certified as ‘totally without merit’ – no right of appeal to Court of Appeal.



What has changed?

Case management

- Non-mandatory case management conferences.
- Formal designation of NSIP judicial reviews as significant planning court claims.



What has changed?

Tighter timetables

- PD52D and PD54D updated re: appeals against High Court judgments in NSIP cases (Oct 2025) – Appellant's Notice must be filed within 7 days.

- Target timeframes for the Courts for decisions.

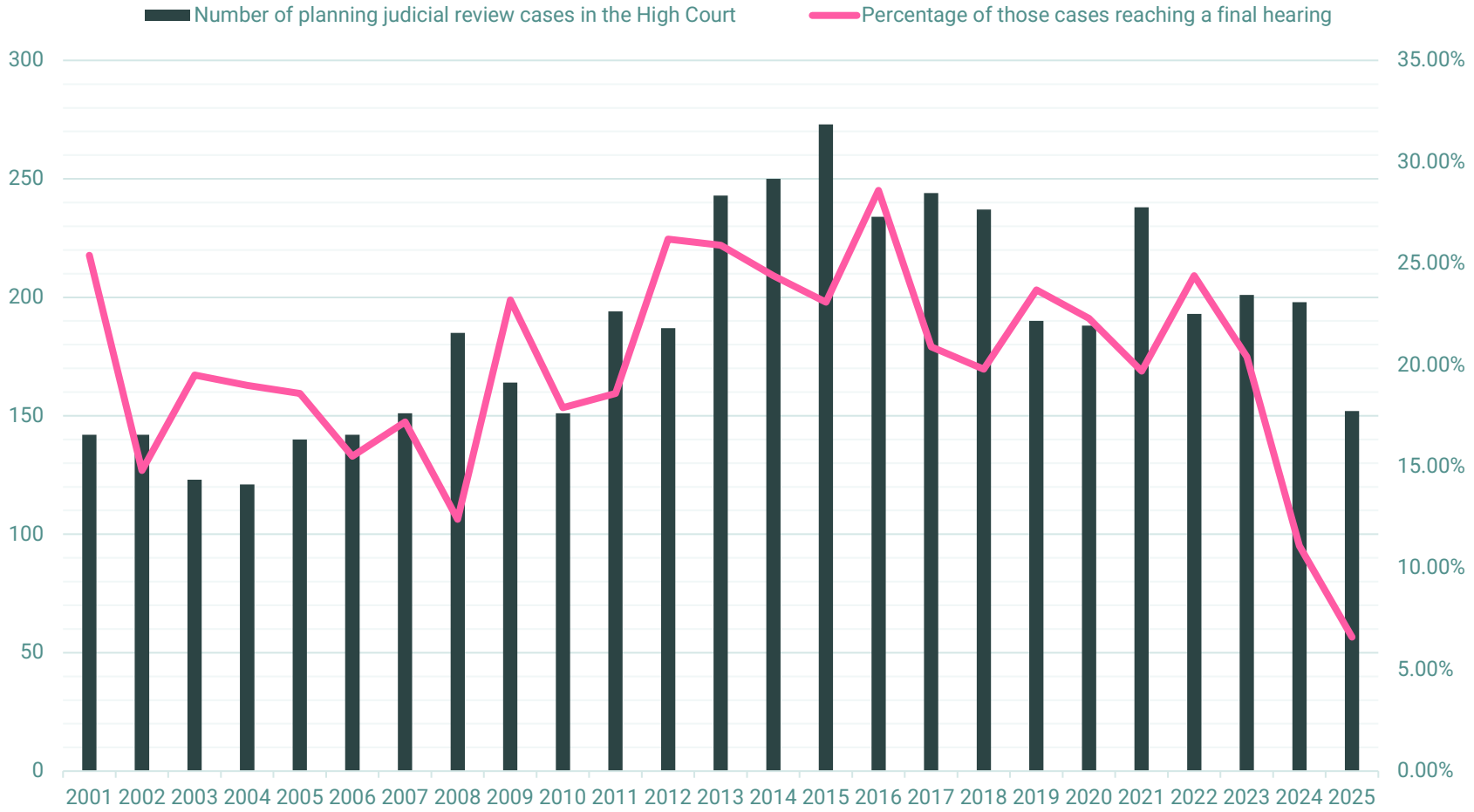


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Trends in planning judicial review

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Are there more planning challenges?



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Are planning cases taking more time?



Be careful what you wish for.....



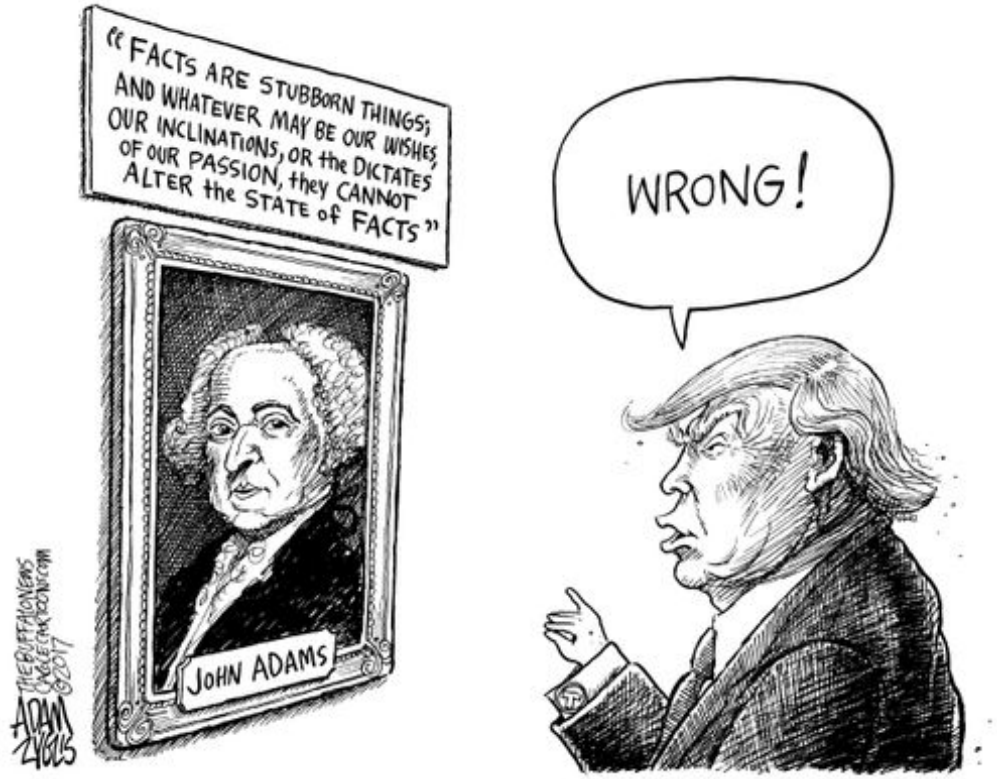
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Top tips for practitioners

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1: GET YOUR FACTS RIGHT

- **Check facts in application documents, planning statements, and proofs of evidence.**
- **Don’t forget to check your plans too!**



2: CHECK OFFICER REPORTS

- ***R (Davis) v Isle of Wight Council*** **[2026] EWHC 1718 (Admin) for guidance on sharing draft reports.**
- **Can check for errors of fact, misinterpretation of policy, gaps in evidence etc.**
- **But judgement must be officer's own.**



3: ACTIVE ROLE AS AN INTERESTED PARTY/SECOND DEFENDANT



4: STANDING

- **Rarely a knock-out blow but worth considering, including on an issue-specific basis**



5: *GOOD LAW* DEFENCE

- **You will need to check the claim was: (i) issued in time; and (ii) validly served in time.**

- **The Courts in recent years have taken a very hard line in respect of valid service in time following *R (Good Law Project) v Secretary of State for Health and Social Care* [2022] EWCA Civ 355**

GOOD LAW Project

6: *BARKER-MILLS* DEFENCE

- ***Trustees of the Barker Mill Estates v Secretary of State for Communities and Local Government*** **[2016] EWHC 3028 (Admin) on introduction of new points at JR stage.**



7: ARE ERRORS IMMATERIAL?

- ***Simplex*** **(statutory review) – necessarily the same?**
- **Or section 31(2A) of the Senior Courts Act 1981 (judicial review) – highly likely the decision would have been the same?**



8: OR CAN THEY BE RENDERED IMMATERIAL?

- **Overtaken by events? - *R (TWS) v Manchester City Council* [2013] EWHC 55 (Admin) at §86.**
- **Or capable of amendment - non-material amendment under section s.96A or the amendment of a condition under s.73 of the TCPA 1990?**



9: SPEEDING UP PROCEEDINGS

- **Designation as significant planning case**
- **Application for expedition**
- **Agreement to a rolled-up hearing**



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10: INSTRUCT A GOOD BARRISTER...

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ANY QUESTIONS?





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